



# **PROCUREMENT 101**

## **OFFICE OF PROCUREMENT SERVICES**

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## 1. INTRODUCTION

The intent of the document is to provide simple direct answers to the types of procurement situations you encounter in the course of carrying out your responsibilities. The goal is to give you easy to use information that can be used as a quick reference to answer the most common questions. If you can't find it here, or the question is more complicated, please do not hesitate to contact us to discuss the issue. We would also like to hear from you if you have comments or suggestions regarding the contents of this document. We are constantly looking for ways to better inform and assist our customers. You are invited to visit our EBC intranet page at <http://ebc.maricopa.gov/Materials/> for additional information and resources.

If you need assistance with a procurement related issue or want to provide comments or suggestion on how to improve this document, our contact information is provided below.

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The Office of Procurement Service website contains information that may be helpful to you. The following is a list of the available resources.

- [Awarded Contracts](#) – A searchable database of contracts. A complete copy of each contract is accessible using this link.
- [Open Solicitations](#) – A list of currently available solicitations issued by Maricopa County.
- [Procurement Code](#) – A searchable copy of the Maricopa County Procurement Code.

## **2. WHAT IS PROCUREMENT?**

In its simplest form and for the purposes of this document, procurement is the organized function responsible for obtaining necessary commodities and services required by departments and agencies to carry out their assigned responsibilities. It is organized because as a governmental entity, Maricopa County is required to comply with statutes and policies that regulate procurement activity.

In Maricopa County, procurement responsibility and authority have been delegated by the Board of Supervisors to the Office of Procurement Services (OPS). For procurement activity to be successful, it cannot occur in a vacuum. To achieve excellent results, procurement activity must be a collaborative exercise between the client agency and the OPS.

The client and OPS each have distinct responsibilities that must be executed to achieve a successful outcome. The following is a brief list of these responsibilities.

### Client

1. Engage OPS early in the process to assist in identification and development of requirements.
2. Accurately convey requirements usually through a specification or scope of work.
3. Respond timely to questions and informational requirements from OPS.
4. Allocated necessary resources to assist in the evaluation process.
5. Communicate issues and problems early before they grow.

### OPS

1. Engage with client on a regular basis to become knowledgeable of their current and future requirements. Understand the clients business.
2. Provide client guidance in the development of specifications and scopes of work.
3. Provide planning information and updates on the procurement process to allow client to plan and remain informed of progress.
4. Direct and assist with the solicitation evaluation and contract award process.
5. Provide guidance, direction and assistance to resolve contract performance issues.
6. Respond timely to client inquiries and requests.

## **3. WHAT ARE THE STATUTES AND POLICIES THAT GOVERN COUNTY PROCUREMENT?**

Maricopa County has adopted the State of Arizona Procurement Code which can be found in Title 41 of the Arizona Revised Statutes. The Maricopa County Procurement Code was adopted by the Maricopa County Board of Supervisors in March 1987. The Maricopa County Procurement Code governs all County procurement activity. A copy of the Maricopa County Procurement Code can be found on the Office of Procurement Services home page at <http://www.maricopa.gov/Materials/pCode/default.aspx>

In addition to the Maricopa County Procurement Code there other policies that regulate procurement activities in Maricopa County. The most important of these are listed below.

- Certified Agency Procurement Aide - [http://ebc.maricopa.gov/materials/capa/ebc\\_capa.asp](http://ebc.maricopa.gov/materials/capa/ebc_capa.asp)
- Purchase Cards – [http://ebc.maricopa.gov/materials/p-card/policy\\_6-03.pdf](http://ebc.maricopa.gov/materials/p-card/policy_6-03.pdf)

#### **4. WHAT IS THE ROLE AND RESPONSIBILITY OF THE OFFICE OF PROCUREMENT SERVICES?**

OPS has several roles and responsibilities for procurement in Maricopa County. It's primary responsibility is to assure that procurements are conducted in strict compliance with applicable statutes and the Maricopa County Procurement Code to maintain the integrity of the County's procurement process. A secondary but equally important responsibility is to assure fair, open and competitive access to vendors who are interested in participating in the County contracting process and to acquire commodities and services at competitive prices. In addition, OPS has numerous other roles and responsibilities which are listed below.

1. Conduct and oversee the solicitation process.
2. Requisition processing.
3. Contract awards and approvals.
4. Contract tracking.
5. Procurement delegation and oversight.
6. Implementation and operations of enterprise procurement applications.
7. Contract dispute resolution.
8. Procurement advice and guidance.
9. Procurement training.
10. Contract monitoring.
11. Procurement and contract policies and procedures development and maintenance.
12. Administration of the purchasing card program.

#### **5. WHAT IS THE ROLE AND RESPONSIBILITIES OF THE USING DEPARTMENT?**

1. Cooperate/collaborate with OPS on procurement projects and issues.
2. Provide complete, accurate and comprehensive specifications and requirements definitions that permit fair, open and competitive procurement activities.
3. Comply with all applicable policies, procedure and statutes.
4. Engage in clear, concise and open communications with OPS.
5. Provide timely reporting of vendor performance issues and concerns and cooperate in resolving problems.
6. Provide timely reporting of all contractual issues, concerns and disputes and cooperate in resolving problems.
7. Actively participate in enterprise and customer specific process improvement initiatives.
8. Provide honest, frank and constructive annual assessment of satisfaction with procurement services provided to your department by OPS.

#### **6. WHO IS AUTHORIZED TO PERFORM PROCUREMENTS?**

The short answer is OPS and those departments with delegated procurement authority approved by OPS. The Maricopa County Procurement Code defines the delegation of procurement authority from the Board of

Supervisors. OPS further delegates' procurement authority to Certified Agency Procurement Aides (CAPA's) who have defined procurement dollar limits. Procurement dollar limits are shown in the next section.

CAPA's have limited authority to make non-contract purchases up to but not exceeding \$50,000, as individually authorized, which is the statutorily defined formal bid limit. CAPA's are authorized to make procurements using informal procurement methods such as verbal quotes, written quotes, and nominal value procurements as defined in the code. CAPA's can also make purchases greater than \$50,000 if the commodity or services is available on a valid and current contract either entered into by Maricopa County or contracts approved for use through a Cooperative Purchase Agreement. Maricopa County contracts are posted on OPS' website at <http://www.maricopa.gov/Materials/Contracts.aspx>.

## **7. WHAT ARE THE PROCUREMENT DOLLAR THRESHOLDS?**

\$50,000 and Greater – Statutory for bid limit. - Procurements with an aggregate value of \$50,000 and greater, not available on an approved County contract, are required to be formally solicited using one of the approved procurement methods, except for approved sole source or emergency procurements. See MC1-345 of the Maricopa County Procurement Code.

\$35,000 or Greater but not Exceeding \$50,000 – Purchases shall be made by soliciting written quotations from a minimum of five (5) vendors, if possible, identified as being capable for providing the commodity or service required.

\$15,000 or Greater but not Exceeding \$35,000 – Purchases shall be made by soliciting written quotations from a minimum of three (3) vendors, if possible, identified as being capable of providing the commodity or service required.

\$5,000 or Greater but not Exceeding \$15,000 - Purchases shall be made through soliciting verbal or written quotations from a minimum of three (3) vendors, if possible, identified as being capable of providing the commodity or service required.

Less the \$5,000 (Nominal Value) – Purchases shall be made with adequate and reasonable competition in the judgment of the CAPA or Procurement Officer.

## **8. HOW ARE PROCUREMENTS CONDUCTED?**

The primary procurement methods approved for use by Maricopa County are listed below.

Request for Quotations (Commonly Referred to as Quotes) – An informal solicitation process used for purchase of less than \$50,000. These can be solicited either verbally or in writing, determined by the dollar value of the purchase.

Invitation of Bids (IFB) (MC1-316) – A formal solicitation method where price is the determining factor after it has been determined the bidder offer meets the minimum specifications of the solicitation and the bid is both responsive and responsible.

Multi-step Sealed Bidding (MSB) (MC1-325) – A multi-step formal solicitation method where phase I entails the evaluation of technical proposals to meet minimum specifications and only those meeting the minimum specifications are invited to participate in a phase II price competition.

Request for Proposals (RFP) (MC1-330) – A formal solicitation method where price is not the primary consideration in determining award. RFP's are used when it is advantageous to Maricopa County to conduct oral or written negotiations with vendors or to permit vendors to modify or revise their offers.

Invitation to Negotiate (ITN) (MC1-344) – A formal solicitation method used when it is determined it is advantageous to Maricopa County to conduct oral or written negotiations with vendors to obtain “best value.” This is a procurement method similar to the RFP process.

Review of Qualifications (ROQ) (MC1-351) – A formal procurement method which is limited for use to professional services as defined in section MC1-203.C. of the Maricopa County Procurement Code. The ROQ process uses the qualifications of the vendor as the primary selection criteria and price is negotiated.

## **9. WHAT IS FAIR AND OPEN COMPETITION?**

The process of inviting and obtaining bids from competing sources in response to advertised competitive specifications, by which an award is made to the lowest and responsive and responsible bidder meeting the minimum specifications.

- Responsive – was the bid/proposal provided by the vendor in accordance with what was required by solicitation?
- Responsible – is the vendor capable and qualified to perform the work?

The process contemplates giving potential bidders a reasonable opportunity to bid, and requires that all bidders be placed on the same plane of equality. Each bidder must bid on the same advertised specifications, terms, and conditions in all the items and parts of a contract. The purpose of competition is to stimulate competition, prevent favoritism, and secure the best goods and services at the lowest practicable price, for the benefit of the County. Competition cannot occur where specifications, terms, or conditions prevent or unduly restrict competition, favor a particular supplier, or increase the cost of goods or services without providing a corresponding benefit to the agency.

## **10. WHAT ARE SOLE SOURCE PROCUREMENTS?**

Sole source situations arise when the ability to get competition for a commodity or service is limited due to availability being limited to a single vendor. Sole source procurements shall be avoided, except when no reasonable alternative exists. Sole source procurements do not permit consideration of a preference for one commodity or service over another.

A sole source does not exist if a commodity or service is available from multiple sources (Ex. Microsoft would be considered the sole source for Microsoft Office Software). Sole source procurement must be approved by the using department prior to purchase by providing written justification substantiating how it was determined the commodity or service is a sole source and why no other commodity or service will fulfill the requirements. The required approval is based on dollar value of the purchase.

- \$50,000 and Less – Chief Procurement Officer
- Greater than \$50,000 – Board of Supervisors formal agenda approval.

## **11. WHAT IS AN EMERGENCY PROCUREMENT?**

An emergency is defined as “Situations where there exists a threat to public health, welfare, property or safety or if a situation exists which makes compliance with sections MC1-316 (Invitations for Bids) or MC1-330 (Request for Proposals) impracticable, unnecessary or contrary to the public interest.”

Example of emergency situations include, but are not limited to:

- Floods
- Epidemics
- Riots
- Equipment failure
- Serious threat to the functioning of Maricopa County government
- Public health or safety

Required approvals are based on dollar value of the emergency expenditure. Documentation explaining the emergency situation must accompany emergency approval requests.

- \$50,000 and Less – Chief Procurement Officer
- Greater than \$50,000 – County Manager.

If there is a true emergency, take reasonable and prudent action to protect the public health, welfare and property and mitigate potential or actual injury or damage. In an emergency situation, you do not need to wait to contact OPS to get authorization to act. OPS will work with you after the emergency has been addressed to justify your actions.

## **12. WHO CAN SIGN CONTRACTS?**

As a general rule it would be safe to assume you cannot sign a contract and we would strongly recommend you don't until you have been assured by legal counsel you have this authority. By statute, the Board of Supervisors is the contracting authority for Maricopa County. The Board of Supervisors has delegated contracting authority to a limited number of positions in the County. The commonly recognized positions with delegated procurement authority are the Chief Procurement Officer and the County Engineer. The Board of Supervisors may delegate contracting authority to other positions for specific purposes but this happens infrequently and usually for a defined period.

## **13. WHEN IS THE BOARD OF SUPERVISORS APPROVAL REQUIRED?**

For procurement matters the Board of Supervisors approval is required in the following situations.

- Contract awards exceeding \$500,000 in value. Contract with a value of less than \$500,000 are awarded by the Chief Procurement Officer.
- Approval of sole source procurements exceeding \$50,000. Sole source requests with a value of \$50,000 or less can be approved by the Chief Procurement Officer.
- When requesting any special authorization or delegation of contracting authority.

## **14. WHAT ARE THE CONSEQUENCES OF MAKING UNAUTHORIZED PURCHASES?**

The Maricopa County Procurement Code, Article 9, MC1-904, titled VIOLATION; CLASSIFICATION; LIABILITY; ENFORCEMENT AUTHORITY addresses purchases that do not fulfill the requirements of the Code. The Procurement Code states:

- A. A Person who Contracts for or purchases any Commodity, Services or Construction without approval of the Board of Supervisors or in a manner contrary to the requirements of this Code or the Arizona Revised Statutes may be personally liable for the recovery of all public monies paid plus twenty percent of such amount and legal interest from the date of payment and all costs and damages arising out of the violation. (A.R.S. 41-2616)



- B. A Person who intentionally or knowingly Contracts for or purchases any Commodity, Services or Construction pursuant to a scheme or artifice to avoid the requirements of this Code is guilty of a Class 4 felony.
- C. The Maricopa County Attorney on behalf of Maricopa County shall enforce the provisions of this Code.

OPS is required to report all instance of Procurement Code violations to the County Attorney's Office for investigation and appropriate action. All purchases made outside the authority and scope of the Procurement Code cannot be paid through the standard accounts payable process. To receive payment, the vendor from whom the purchase was made must submit a claim to the Board of Supervisors. The Notice of Claim form can be found on the Clerk of the Board of Supervisors website at [http://www.maricopa.gov/Clk\\_board/Forms.aspx](http://www.maricopa.gov/Clk_board/Forms.aspx). The claim will be reviewed the appropriate personnel in the County Attorney's Office, and if determined to be valid, will be placed on a Board of Supervisors Executive Meeting Agenda to receive legal advice on the request for payment. Normally a representative of the department which made the purchase will be invited to this meeting to explain how this situation occurred, what steps the department has taken to assure this situation does not reoccur, and any personnel issues associated with the matter. The claim will then be placed on a formal Board of Supervisors Meeting Agenda for consideration and action.

If the purchase is determined to have been made scheme or artifice, the County Attorney's Office will initiate appropriate criminal action.

#### **15. WHAT SHOULD I DO IF I DISCOVER ILLEGAL OR INAPPROPRIATE PROCUREMENT ACTIVITY?**

If you discover situations which you feel may rise to the level illegal or inappropriate procurement activity, please immediately contact your immediate supervisor, OPS, and your assigned Deputy County Attorney.

#### **16. IF I HAVE A PROCUREMENT RELATED PROBLEM, WHO DO I CONTACT?**

It depends on the nature of the problem you are experiencing. If you are experiencing a contractor performance issue, your first contact should be with the contractor to discuss the issues and concerns you have with their performance. Your discussion must be very specific and reference their responsibilities as defined in the contract. As part of this discussion, you should provide a list of issues and concerns to the contractor in writing. Once you have articulated your issues and concerns, the contractor should be given a reasonable period of time to investigate and respond to you in writing how and when they will make the necessary performance corrections.

As part of this process you should notify OPS of the problems you are encountering by using the Vendor Complaint Form which can be found on the OPS website at [http://ebc.maricopa.gov/Materials/vend\\_complaint/vendor\\_complaint\\_form.asp](http://ebc.maricopa.gov/Materials/vend_complaint/vendor_complaint_form.asp). The purpose of this form is to document contract performance issues which can be used during future procurements or for administrative processes such as suspension or disbarment of vendors. Using departments are sometimes upset that a contractor they have had previous problems with is awarded a new contract for the same commodity or service. Unfortunately, if these problems are never documented, it is virtually impossible to eliminate the vendor from consideration. The County wants to establish business relationships with vendors who perform, and contribute to the success of Maricopa County.

If the contractor is either unwilling to make the required corrections to their performance or have been unsuccessful in making the necessary corrections, you should contact the Procurement Officer in OPS and engage them in the issue resolution process. The Procurement Officer, after gathering information from you on the specific problems and the actions you have taken, will initiate a notice to cure process. The objective of this process is to either bring the contractor's performance back into compliance with the contract or provide the basis for cancelling the contract for cause.

If you are experiencing a problem or issue with a Procurement Officer, please contact the Chief Procurement Officer or Deputy Procurement Officer.

#### **17. CAN I TALK TO VENDORS?**

Yes. Vendors are a great source of information on commodities and services that may be useful to you department. Please follow a few simple rules when talking to vendors.

1. While obtaining information or asking questions about a commodity or service is permitted, do not enter into or entertain any type of contract negotiations on such things as terms, conditions or prices.
2. Do not make any commitments to purchase a commodity or service. Make it clear that any purchases will be conducted in full compliance with the Procurement Code.
3. Do not discuss your dissatisfaction with another vendor's product or service. The purpose of talking to potential vendors is to obtain information on their commodity or service, not discuss problems with their competitor.
4. Do not favor one vendor over others who wish to discuss what they can offer you. Your time is valuable as is the access it represents. Providing access to one or two vendors over all others can be perceived as demonstrating favoritism which taints the entire procurement process.
5. Meet in your office, not at lunch, on the golf course, or other offsite locations. When a vendor provides you something, there is sometimes an expectation they will receive something in return which should be avoided.
6. If you don't want to speak to vendors, simply tell them no thank you and refer them to OPS.

#### **18. WHAT CAN I ACCEPT FROM VENDORS?**

Maricopa County has issued Policy A1515, Acceptance of Gifts by County Employees is Prohibited. In addition, the Maricopa County Ethics Handbook provides additional guidance on this question. The Ethics Handbook states:

It has been Maricopa County's policy that employees may not accept any gifts or favors that would lead toward favoritism or the appearance of favoritism. (See Maricopa County Employee Merit System Rule 11.) Similarly, Arizona law prohibits County employees and members of boards, committees, and commissions from receiving anything of value or any compensation other than their normal salary for any service rendered in connection with that person's duties with Maricopa County. (See A.R.S 38-505)

#### **19. A VENDOR KEEPS CALLING AND I DON'T WANT TO TALK TO THEM. WHAT DO I DO?**

There is no requirement that you talk to vendors. If you do not wish to vendors, you may refer them to the Office of Procurement Services. For the purposes of this discussion, a distinction should be made between a vendor (a person or company that wishes to do business with the County) verses a contractor (a person or company that holds a contract to provide a commodity or service to the County). If you have a contractor who is providing commodities or services to your department, you may want to give their request for a meeting

additional consideration. Please remember, all vendors should be given equal access. Restricting access can and often is perceived as demonstrating favoritism for one vendor or another.

## **20. WHAT DO I REALLY NEED TO WATCH OUT FOR?**

Keeping in mind a few simple rules will in most instances eliminate any procurement issues or problems.

1. Do not sign contracts unless you have confirmed the Board has delegated contracting authority to you or your position.
2. Do not make any agreements to amend or otherwise change the terms, conditions, prices or deliverables of a contract without going through a formal amendment process.
3. If there is a true emergency, take reasonable and prudent action to protect the public health, welfare and property and mitigate potential or actual injury or damage. In an emergency, you do not need to wait to contact OPS to get authorization to act. OPS will work with you after the emergency has been addressed to justify your actions.
4. Maintain a professional and arms length relationship with vendors and potential vendors. You should avoid lunches, tickets, gifts, and other gratuities that give the perception of favoritism.
5. If you have procurement questions, ask your departmental procurement personnel or contact OPS. It's much easier to avoid a problem than resolve a problem.
6. Impress upon your employees the need to know the terms, conditions, deliverables and pricing on contracts they use. The OPS Contract Monitors find many instances of overpayment for commodities or services, or paying for products or services the County didn't receive.
7. Specifications are critical to a successful procurement process. Poor or inadequate specifications will result in your department not getting what it needs to perform. It is critical to accurately and thoroughly define your minimum needs when procuring commodities or services.